

Housing Code Violation Diversion Information Sheet

The following guidelines have been adopted by the Wichita City Attorney's Office for the Housing Code Diversion program in the Wichita Municipal Court.

Diversion is a **privilege** afforded an accused and is not a right. Application does not ensure that participation in the program will be allowed.

It is not required that the defendant have an attorney for the purpose of diversion; however, a defendant has the right to employ an attorney and have him/her present throughout the diversion application process. If a defendant cannot afford an attorney, if he or she meets certain financial guidelines, the court may appoint the defendant an attorney.

Eligibility: Factors Considered

In determining whether or not diversion is appropriate, the City Prosecutor will consider a number of factors. Some of these factors include:

1. The nature of the violation and the circumstances surrounding it.
2. Any special characteristics and circumstances of the defendant.
3. Whether the defendant is a first-time offender.
4. Whether the diversion program is appropriate to the needs of the defendant.
5. The impact of diversion on the community.
6. Recommendations of the housing code inspectors.
7. Any mitigating or aggravating circumstances surrounding the violation.

Only individuals who have not been convicted of a housing code violation within the last three years are eligible to participate in the housing diversion program.

Procedure

A \$25 non-refundable application fee is to be paid to Municipal Court prior to the initiation of the diversion process. Applications must be filed within 60 days from the defendant's arraignment in Municipal court. The City Prosecutor will review requests for diversion and will require a diversion conference with the applicant. Please review the following carefully:

- A. The diversion application **must** be completed on the form provided by the Clerk of the Municipal Court. Photocopied reproductions will not be accepted.
- B. A diversion hearing date will be scheduled at the time the application and application fee is submitted. The diversion hearing will be held on the **fourth Thursday** of the month at the **East Police Substation**, 350 South Edgemoor, Wichita, Kansas 67218.
- C. The defendant or the defendant's attorney will be notified if the diversion application has been approved. If the application is denied, the defendant or the defendant's attorney will be notified in writing. The agreement will be approved by the Environmental Court Judge.
- D. The applicant must attend a **pre-diversion conference** with the appropriate housing inspector, diversion coordinator, and when applicable a representative from housing services. Pre-diversion conferences will be held in the Office of Central Inspection Conference room, Seventh Floor, 455 N. Main, Wichita, Kansas 67202.
- E. An agreement for a compliance plan to abate the housing code violation must be completed and approved by the appropriate housing inspector and diversion coordinator. Such plan must not exceed six months. Repairs are to be made at the defendant's expense.

The Diversion Agreement

If the City Prosecutor approves a diversion agreement, the terms and conditions will be reduced to writing for approval and signature by both parties. The executed diversion agreement will be filed with the Municipal Court and criminal proceedings will be suspended as long as the defendant fulfills the terms and conditions of the diversion agreement. Upon successful completion of the agreement, the City Prosecutor will move to dismiss the charge(s) with prejudice.

If at any time during the diversionary period the City Prosecutor finds that the defendant is no longer fulfilling the terms of the agreement, the City Prosecutor will file a Motion to Revoke the agreement and resume criminal proceedings.

Housing code violations will be diverted for a period not to exceed nine (9) months. The defendant will be responsible for paying all court costs and the costs of any required repairs.

Applications shall be filed with the Municipal Court Clerks Office, second floor, City Hall, 455 N. Main, Wichita, Kansas 67202. If you have questions about the diversion process, you may contact the Diversion Coordinator, Sharon Dickgraft at 268-4681.